IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Writ Petition No. 473 of 2007 (M/B)

Smt. Sarla Devi w/o Sri Om Prakash
Gram Pradhan, Gram Sabha Chowki,
Patwari Circle Mussoorie,
District Dehradun ..... Petitioner

Versus

1. State of Uttarakhand through Secretary Home,
   Civil Secretariat, Uttarakhand, Dehradun.
2. Station House Officer,
   Police Station Mussoorie,
   District Dehradun.
3. Sardar Singh Chauhan,
   Assistant Social Welfare Officer,
   Sahaspur, District Dehradun ……. Respondents

…….

Sri R.P.Nautiyal, Advocate for the petitioner.
Sri G.S.Sandhu, Government Advocate for respondents 1 & 2.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S.Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Sri R.P.Nautiyal, Advocate for the petitioner.

Sri G.S.Sandhu, Government Advocate for respondent 1 and 2.

They are heard on admission.

2. Petitioner Smt. Sarla Devi has filed this writ petition for the following reliefs:

> "i) Issue a writ, order or direction in the nature of certiorari calling for the records and quashing the first information report dated 8.4.2007(Annexure No. 2 to this writ petition), lodged by the respondent no. 3 on the basis of which, a case crime no. 10 of 2007 under Section 409 I.P.C. was registered at Police Station Mussoorie, District Dehradun, so far as it relates to the petitioner.

ii) pass any other and further orders, which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(iii) Award the cost of the petition to the petitioner."

3. The petitioner is seeking quashing of the First Information Report which gave rise to the registration of a case against the petitioner and her co-accused Nand Kishore Chauhan at Crime No. 10 of 2007 at Police Station Mussoorie, District Dehradun for the alleged commission of the offence punishable U/s 409 I.P.C.

4. On due consideration of the submissions of the learned counsel for the parties; the contents of the First Information Report; and the documents filed by the petitioner along with petition, we are of the opinion that no case warranting quashing of the First Information Report and the case registered against the petitioner in view of the dictum of the Apex Court in the case of **T. Vengama Naidu Vs. T. Dora Swamy Naidu and others** reported in **JT 2007(4) SC 240,** is made out.

5. We are refraining from commenting on the merits of the case lest it may adversely affect the petitioner's case at the trial which the petitioner is yet to face.

6 The writ petition, therefore, is liable to be dismissed.

7. We, however, deem it proper to direct that in the event of arrest of the petitioner by the police or her surrender before the Court concerned, her bail petition shall be taken up for hearing in accordance with law without any undue delay.

8. With the above direction, the writ petition stands disposed of.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C.J.)**

01.05.2007 01.05.2007

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